IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 17TH NOVEMBER 2006 / 26TH KARTHIKA 1928

WP(C).No. 35953 of 2005(E)

PETITIONER:

THE CHAIRMAN,
BOARD OF TRUSTEES, SREE PAZHANCHANNUR DEVASWOM,
PAZHANCHANNUR, KADALUNDI, KOZHIKODE.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
KOZHIKODE.

2. THE REVENUE DIVISIONAL OFFICER,
KOZHIKODE.

3. MARUTHAYIL ABDUL KARIM,
RESIDING AT THIRUR HOUSE,
POST CHALIYAM, KADALUNDI, KOZHIKODE.

4. NANDANARKANDY DIVAKARAN,
RESIDING AT NANDANARKANDY HOUSE,
POST CHALIYAM, KADALUNDI, KOZHIKODE.

5. MATHOTATHIL AJITH KUMAR,
THRIPTHY NIVAS, CHALIYAM.P.O,
KADALUNDI, KOZHIKODE.

6. THE COMMISSIONER,
THE HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
DEPARTMENT, CIVIL STATION, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN
R1 & R2 BY SR.GOVERNMENT PLEADER MR.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE JUDGMENT IN CRP 1561/90

EXT.P2 TRUE COPY OF THE ORDER DATED 12.3.2003 OF THE 2ND RESPONDENT

EXT.P3 TRUE COPY OF THE REVISION MEMORANDUM FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P4 TRUE COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 16.5.05 DISMISSING THE REVISION.

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.P.(C) No.35953 of 2005

Dated, this the 17th day of November, 2006

JUDGMENT

V.K.Bali,C.J.(Oral)

The prayer made in this petition filed under Article 226 of the Constitution of India is to quash Exts.P2 and P4 orders of respondents 1 and 2 by way of writ of certiorari and also a writ in the nature of mandamus directing the 6th respondent to initiate action against respondents 3 to 5 in accordance with Ext.P1 judgment of this Court so as to restore the land belonging to the Devaswom stated to be in illegal possession of respondents 3 to 5.

2. Learned counsel appearing for respondents 3 to 5 raised a preliminary objection with regard to the maintainability of the petition in view of the remedy available to the petitioner under Section 10(ii) of the Malabar Land Registration Act, 1895. Confronted with the position aforesaid, counsel for the petitioner states that for filing such a suit permission of the Hindu Religious

and Charitable Endowments Department is required which is not forthcoming.

3. In the peculiar facts and circumstances of the case we direct the Hindu Religious and Charitable Endowments Department to accord permission to the petitioner for filing a civil suit. This prayer of the petitioner could not be opposed by the counsel for the respondents on any legal grounds. The Hindu Religious and Charitable Endowments Department would accord permission to the petitioner within a period of six weeks from today.

Writ petition is disposed of accordingly.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns